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Attorneys for Secured Creditor,  
GE Commercial Finance Business Property Corporation

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SANTA ROSA DIVISION**

In re:  
KKG CONSOLIDATED, LLC,  
  
Debtor.

Case No. 08-12350

Chapter 11

**ORDER APPROVING STIPULATION  
BETWEEN DEBTOR AND GE  
COMMERCIAL FINANCE BUSINESS  
PROPERTY CORPORATION RE: RELIEF  
FROM THE AUTOMATIC STAY**

GE Commercial Finance Business Property Corporation ("GECF") filed a motion (the "Motion") for an order approving its stipulation with Debtor for relief from the automatic stay. A copy of the stipulation is attached hereto as Exhibit A (the "Stipulation"). The Court having considered the Motion and the Stipulation, and good cause appearing therefor,

IT IS HEREBY ORDERED that:

1. The Motion is granted;
2. The Stipulation is approved;
3. The ten-day stay provided in Rule 4001(a)(3) of the Federal Rules of Bankruptcy

Procedure is waived; this order is valid immediately and fully effective upon its entry.

1 Dated: December 11, 2008

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3 Alan Jaroslovsky  
4 U.S. Bankruptcy Judge

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**EXHIBIT A**

**STIPULATION RE STAY RELIEF**

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**STIPULATION BETWEEN DEBTOR AND  
GE COMMERCIAL FINANCE BUSINESS  
PROPERTY CORPORATION RE: RELIEF  
FROM THE AUTOMATIC STAY**

This stipulation ("Stipulation") is entered into by and between KKG Consolidated, LLC, debtor and debtor in possession herein ("Debtor"), and GE Commercial Finance Business Property Corporation, a secured creditor ("GECF"), with respect to the following:

RECITALS

WHEREAS, on or about March 31, 2006, Debtor borrowed \$5,945,028.94 (the "Loan") from GECF, as evidenced by that certain Promissory Note dated as of March 31, 2006 (the "Note").

WHEREAS, the Note is secured by that certain Commercial Deed of Trust, Security Agreement, Assignment of Leases, Rents, and Fixture Filing dated as of March 31, 2006 (the "Deed of Trust"), covering the real property on which the premises owned by the Borrower is situated, as more particularly described in the Deed of Trust.

WHEREAS, by the terms of the Deed of Trust, Debtor, as trustor, irrevocably granted, conveyed, and assigned to First American Title Insurance Company, as trustee, in trust with the

1 power of sale, for the benefit of GECF, as beneficiary, all of Debtor's right, title, and interest of any  
2 kind in the real and personal property described in the Deed of Trust, whether then in possession or  
3 expectancy, including any after-acquired interest (the "Property").

4 WHEREAS, the Deed of Trust was recorded in the Official Records of the County Recorder  
5 of Marin County, State of California, on April 4, 2006, as Document No. 2006-0020983.

6 WHEREAS, GECF filed a UCC-1 Financing Statement with the Secretary of State of  
7 California.

8 WHEREAS, the Note, the Deed of Trust, the financing statement, and all other agreements,  
9 documents, or instruments executed in connection with the Loan shall be collectively referred to as  
10 the "Loan Documents."

11 WHEREAS, an Event of Default has occurred, and GECF has elected to accelerate Debtor's  
12 obligations under the Loan Documents.

13 WHEREAS, on or about May 23, 2008, GECF caused a notice of default to be recorded  
14 against the real property in Marin County;

15 WHEREAS, on or about June 6, 2008, GECF commenced in the Superior Court of  
16 California, Marin County (the "State Court"), a foreclosure action against Debtor and others, styled  
17 *GE Commercial Finance Business Property Corporation v. KKG Consolidated LLC, Peter*  
18 *Thompson, KKG Management, Thompson Pacific Construction et al.*, Case No. CV-082782 (the  
19 "Foreclosure Action").

20 WHEREAS, on or about July 8, 2008, the State Court issued an order (the "Receiver Order")  
21 in the Foreclosure Action appointing David A. Bradlow (the "Receiver") as the receiver of the  
22 Property for the benefit of GECF. The appointment provided the Receiver with broad authority to  
23 manage and operate the Property.

24 WHEREAS, on November 3, 2008 (the "Petition Date"), Debtor filed a voluntary petition for  
25 relief under chapter 11 of title 11 of the United States Code, commencing the above-captioned  
26 chapter 11 bankruptcy case (the "Bankruptcy Case").

27 WHEREAS, since the Petition Date, the Foreclosure Action as against the Debtor has been  
28 stayed pursuant to 11 U.S.C. § 362.

1 WHEREAS, Debtor has acknowledged and agreed that it has no equity in the Property, and  
2 the Property is not necessary to an effective reorganization of Debtor's business.

3 NOW, THEREFORE, in consideration of the foregoing, it is hereby STIPULATED AND  
4 AGREED by and between the parties hereto, through their undersigned counsel, as follows:

5 1. Relief from Automatic Stay. The automatic stay pursuant to 11 U.S.C. § 362 shall be  
6 terminated, annulled, and vacated immediately upon entry of an order approving this Stipulation, for  
7 the purpose of allowing GECF to exercise all of its rights and remedies as to the Property in  
8 accordance with the Loan Documents and applicable law. Such rights and remedies shall include,  
9 but are not limited to:

- 10 (a) The right of GECF to prosecute the Foreclosure Action in all respects;  
11 (b) The right of the Receiver to retain custody, possession, and control of the Property;  
12 (c) The right of the Receiver to carry out all of its duties with respect to the Property as  
13 provided for by the Receiver Order;  
14 (d) The right of GECF and its agents or representatives to conduct environmental site  
15 assessment of the Property; and  
16 (e) The right of GECF and its agents or representatives to conduct appraisal of the  
17 Property.

18 2. Compliance under 11 U.S.C. § 543. The parties agree that it is in the interests of  
19 creditors that the Receiver shall be excused from its obligations pursuant to 11 U.S.C. § 543 to turn  
20 over and account for the Property, or any portion thereof, to Debtor or any trustee appointed in this  
21 Bankruptcy Case.

22 3. Further Assurance. Debtor and GECF shall cooperate with each other to effectuate  
23 the terms and intent of this Stipulation.

24 4. Waiver of Ten-Day Stay. The ten-day stay on the order approving this Stipulation  
25 provided under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure shall be waived.

26 5. Successors and/or Assigns. Upon Court approval, this Stipulation shall be binding  
27 upon each of the parties and their respective successors, heirs, trustees, administrators, and assigns.

28 6. Facsimile Signatures and Counterparts. Facsimile or portable document file (pdf)

1 signatures shall have the same force and effect as original signatures. This Stipulation may be  
2 executed in one or more counterparts, all of which when taken together shall constitute a single  
3 instrument.

4 WINSTON & STRAWN LLP

5 Dated: November 25, 2008

By: /s/Brian Y. Lee  
BRIAN Y. LEE  
Attorneys for GE Commercial Finance Business  
Property Corporation

8 LAW OFFICES OF MICHAEL C. FALLON

9 Dated: November 25, 2008

By: /s/Michael C. Fallon  
MICHAEL C. FALLON  
Attorneys for KKG Consolidated, LLC

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